United Nations A/ES-10/768–S/2018/180

General Assembly
Security Council

Distr.: General
7 March 2018

Original: English

General Assembly
Tenth emergency special session
Agenda item 5
Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory

Security Council
Seventy-third year

Identical letters dated 2 March 2018 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council

I write to draw your attention to the ongoing critical situation in the Occupied Palestinian Territory, including East Jerusalem, and, more specifically, to the continued repressive practices by Israel, the occupying Power, against Palestinian worshippers and holy sites in Occupied East Jerusalem, including one of the holiest churches in Christianity, the Church of the Holy Sepulchre.

Recent developments highlight once again the urgent need for efforts by the international community, particularly the Security Council, to collectively act to stem the dangerous deterioration so as to avert further instability; to ensure respect for the relevant United Nations resolutions, including with regard to the status of Occupied East Jerusalem as an occupied territory, the applicability of the Fourth Geneva Convention and the prohibition of all acts aimed at altering the demographic composition, character and status of the City; and to ensure respect for the historical status quo at the holy sites.

In light of ongoing attempts by the occupying Power to change the status of the City and in contravention of the historical status quo, on Sunday, 25 February 2018, leaders from the Roman Catholic, Armenian and Greek Orthodox churches were compelled to announce the closing of the doors of their churches, including the Church of the Holy Sepulchre, in united protest against Israel's discriminatory policies, which undoubtedly aim at weakening the Christian presence in Jerusalem.

This decision by church leaders was premised on a series of ongoing and systematic attacks against Christians, violating their most basic rights. For example, a so-called bill was proposed in the Israeli Knesset that would allow Israel, the occupying Power, to confiscate church-owned land leased to private investors, a bill that solely targets the properties of the Christian community. Another proposed measure targeting churches would see churches starting to pay tens of millions of dollars in taxes on their assets and properties.

Moreover, the occupying Power has already seized hundreds of thousands of dollars from the largest churches in Jerusalem, including the Catholic, Greek

Orthodox, Anglican and Armenian Orthodox churches. Liens placed on church accounts and the freezing of bank accounts, such as that of the Anglican Church in Jerusalem, have already stunted churches' daily operations in the city. Recently, a representative of the Greek Orthodox patriarchate stated: "All of our assets are frozen...we can't pay for food, salaries, administration, nothing". In an ecumenical letter penned on 14 February, the churches expressed their view that this measure "both undermines the sacred character of Jerusalem and jeopardizes the Church's ability to conduct its ministry in this land on behalf of its communities and the worldwide church".

These illegal actions breach centuries of precedent and existing agreements and betray international obligations that guarantee the rights and the privileges of the churches. Since the Ottoman period, all church property has been exempt from municipal property taxation. In this regard, please find annexed to this letter a fact sheet regarding the historical status quo and its meaning and implementation across the years.

Following rejection and resistance from both Palestinians and international religious and political leaderships worldwide, as well as the closing of the Church of the Holy Sepulchre for three days in protest of Israeli policies, Israel was compelled to retreat from its hostile assault on the heart and birthplace of Christianity on 27 February by suspending its so-called legislation on the imposition of taxes on churches and their properties.

This incident proves yet again that when people of conscience and members of the global community hold Israel to account for its violations, the occupying Power is compelled to respond, whereas a lack of accountability fosters only further impunity, compounding the violations and hastening the deterioration of the situation.

In this regard, it is clear that since the announcement on Jerusalem by the United States, on 6 December 2017, Israel has taken increasingly forceful action to tighten its control over the city. Indeed, while the Israeli plan regarding the churches specifically has been temporarily suspended due to popular and international pressure, Israel's plans and attempts to change the status quo of the holy sites in Jerusalem continue unabated, and Palestinians (Christians and Muslims) continue to be systematically prevented from reaching their places of worship in Jerusalem, as the City remains under Israeli occupation, siege and security control.

Clearly, recent measures against Christian churches are an attempt to severely change the status of Jerusalem and to further entrench Israel's illegal occupation of Occupied East Jerusalem and impose Jewish exclusivity over the City as a whole, a City whose status remains that of *corpus separatum* under General Assembly resolution 181 (II). In fact, the latest series of measures by the occupying Power are a continuation of its series of so-called "laws", proposals and measures targeting the City, which expose its true intentions to alter the character, status and demographic composition of Jerusalem, in direct and grave breach of international law and the relevant United Nations resolutions.

In this regard, it is imperative to recall that Palestinian holy places and institutions have existed for centuries, long before the creation of the State of Israel. Yet, for decades now, Palestinian Christian and Muslim holy sites have been the target of Israeli occupation measures seeking to distort and negate the sanctity, history, culture and relevance of these human heritage sites, while simultaneously attempting to eradicate the Palestinian identity and presence. Here we must recall the affirmation by Palestinian President Mahmoud Abbas that "There will not be a vibrant Palestinian society without its Christian component. The contributions of our Christians to the national movement have been precious, always remembered, and represent an example for the rest of our region to make clear that there will not be an Arab world without Christians, an inherent part of our societies".

The international community has a clear, legal position on the status of the occupied State of Palestine, including occupied East Jerusalem, and must reject all violations of that status and demand that Israel's unilateral, provocative and illegal decisions be rescinded and regarded as null and void. Israel must be compelled to totally cease and not just suspend its measures against churches and the historical status quo in Jerusalem. It must be obliged to rescind all policies and practices that target Palestinian Christian and Muslim holy sites and that violate international law and United Nations resolutions, and must refrain from any such acts in the future.

In light of ongoing Israeli violations, we urge collective efforts to ensure that the historical status quo in Jerusalem that has prevailed for centuries be maintained. As expressed by the General Secretary of the World Council of Churches, the Reverend Olav Fyske Tveit, "This situation should call for support and action from church leaders as well as from governments that are concerned about Jerusalem as a shared Holy City of the three religions: Judaism, Christianity and Islam".

We thus reiterate our appeal to the international community to compel Israel, the occupying Power, to respect the historical status quo of the holy sites in Occupied East Jerusalem and to comply fully with the numerous relevant Security Council resolutions, including resolution 2334 (2016), and General Assembly resolutions pertaining to the holy sites, including resolution ES-10/19. The occupying Power must show respect for the sanctity of the holy sites and respect also the role of the Hashemite Kingdom of Jordan as the custodian of the Muslim and Christian holy sites in Jerusalem. All illegal Israeli measures regarding the holy sites must be reversed and guarantees must be put in place so that such measures, or any other provocative measures, for that matter, will not be repeated, as they only risk exacerbating religious sensitivities and tensions, which must be averted at all costs.

We call upon the international community to take a firm and principled stand against all illegal Israeli actions against the Palestinian people and their land, including by firmly demanding that it immediately cease all measures and provocations violating the status quo of the holy sites and cease its provocations and stoking of religious sensitivities. The international community must act responsibly and take serious action aimed at compelling Israel to cease all of its crimes and violations before it is too late and to act forthwith to end the occupation that began in 1967. These steps are urgent and long overdue and are essential to allowing the Palestinian people to finally live in freedom and dignity in their own independent State of Palestine, with East Jerusalem as its capital.

This letter is in follow-up to our 624 previous letters regarding the ongoing crisis in the Occupied Palestinian Territory, including East Jerusalem, which constitutes the territory of the State of Palestine. Those letters, dated from 29 September 2000 (A/55/432-S/2000/921) to 12 February 2018 (A/ES-10/767-S/2018/113), constitute a basic record of the crimes being committed by Israel, the occupying Power, against the Palestinian people since September 2000. For all of these war crimes, acts of State terrorism and systematic human rights violations being committed against the Palestinian people, Israel, the occupying Power, must be held accountable and the perpetrators be brought to justice.

I should be grateful if you would arrange to have the text of the present letter and its annex distributed as a document of the tenth emergency special session of the General Assembly, under agenda item 5, and of the Security Council.

(*Signed*) Riyad **Mansour**
Ambassador, Permanent Observer
of the State of Palestine to the United Nations

Annex to the identical letters dated 2 March 2018 from the Permanent Observer of the State of Palestine to the United Nations addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council

The historic "Status Quo" agreement in Jerusalem and the Israeli occupation, in the light of Israel's attempt to impose municipal taxes on church property: frequently asked questions (1 March 2018)

1. What is the "Status Quo"?

Jerusalem is one of the most important religious cities for the three monotheistic religions. It hosts thousands of religious, archeological, and heritage sites that are holy for billions of people worldwide. Over the centuries, traditions and agreements between the various religions and religious groups have been forged to set forth each religious group's rights.

The Status Quo describes the arrangements between different religions and religious groups over shared or contested religious sites. While it enshrines many rights and obligations, one of its most fundamental rights is that any religious community that has a current right must consent to any change, either in procedure or substance.

2. Is the Status Quo Enshrined in International Law?

The Status Quo is a unique legal system that applies to whichever authority exercises control over Jerusalem. The rights and obligations enshrined in the Status Quo remain even when the governing authority in Jerusalem changes. As a specific set of legal obligations that have been created over centuries of practice and now are considered binding international law, it supersedes any and all aspects of domestic law.

The core of the Status Quo was set out in an Ottoman Farman in 1757, then later confirmed in an Ottoman Farman in an 1852 Farman, and codified by international treaty in the 1856 Treaty of Paris and the 1878 Treaty of Berlin. The Status Quo obligations were enshrined in the Partition Plan's Statute on Jerusalem and was its continuation was a core concern of the international community in the events following 1948. A report by the 1949 Conciliation Commission on Palestine laid out in more precise detail the locations protected by the Status Quo arrangements.

Every governing authority over Jerusalem is required to uphold the Status Quo as a distinct legal obligation.

3. Which countries are involved in the Status Quo?

During the Ottoman period, foreign powers became involved in order to ensure the rights of certain communities. The rights of the Catholic Church and Community[1] became the responsibility of France, Italy, Belgium and Spain, and Greece for the Orthodox Community. This has become an accepted practice that has lasted, in the case of the Catholic Church, from the Ottoman period until today.

[1] See Custodia Terrae Sanctae, "Status Quo," available at http://www.custodia.org/default.asp?id=433.

4. What are Israel's Legal Obligations Regarding Taxation of Church Property?

Since the Ottoman period, all church property has been exempt from municipal property taxation. This obligation was initially created by the Ottoman government's practice, accepted by the British during the Mandate Period, enshrined in the 1947 Partition Plan (which proscribed imposing taxation on any new properties), followed by the Jordanians when they controlled Jerusalem, and has been practiced by Israel for many years since their occupation of East Jerusalem.

Like the formal arrangements of the Status Quo, the long-standing practice of not taxing church properties has crystallized into an international legal obligation over the governing authority of Jerusalem.

Furthermore, as per Article 43 of the 1907 Hague Convention, the occupying power is required to respect the laws in place at the time of occupation, unless absolutely prevented by military necessity. Israel's annexation of East Jerusalem remains null and void under international law and consensus, and East Jerusalem remains in a state of prolonged belligerent military occupation. As such, the requirement to abide by local law remains; Israel's attempt to change this is not permitted under the law of occupation and general principles governing international humanitarian law.

5. What is the official position of the State of Palestine regarding the Status Quo and the taxation of Church property?

The State of Palestine has reaffirmed its commitment to the Status Quo on several occasions, including in the historic Palestine-Holy See Agreement of 2015. As the birthplace of Christianity, Palestine values the presence of a vibrant and active Christian community as an integral part of its national identity and social fabric. Therefore, and aiming at supporting the important educational, social, cultural and spiritual work of the local churches, the State of Palestine exempts Churches and church property from taxation and customs duties.

6. Does the Status Quo extend to other religious sites?

The Status Quo understandings concern both Al-Aqsa Mosque Compound/Al-Haram Al-Sharif and the Buraq Wall (Wailing Wall), amongst several other religious sites in Jerusalem. A full accounting and list of the sites protected, and the relevant rights for each religious community and the determination of which community (if any) is in exclusive possession of the sites, are laid out in the UN Conciliation Commission for Palestine in 1949.[2]

Prepared by the Negotiations Affairs Department/State of Palestine/Palestine Liberation Organization

[2] http://ecf.org.il/media_items/1467.